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C O N F I D E N T I A L SECTION 01 OF 02 GUATEMALA 000806

SIPDIS

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TAGS: PHUM PGOV PREL SNAR CU GT OAS

SUBJECT: BERGER ON CAFTA ISSUES CUBA OAS SECGEN ELECTION  
AND DRUGS

Classified By: AMB JOHN R. HAMILTON, EMBASSY GUATEMALA.  
REASON: 1.4 (A) AND (B)

11. (C) Summary: At lunch March 30, Berger took on board the Ambassador,s arguments that he needs to do something about the lack of effective labor inspection (in the context of the U.S. CAFTA debate) and that he needs to answer the mail from U.S. organizations protesting alleged repression of peaceful anti-CAFTA demonstrators. He continues to be interesting in ginning up a CAFTA-lobbying visit to Washington of his CenAm colleagues ) at least Sacca and Maduro. We need to work him further on the Cuba resolution, as he is concerned that a yes vote will inflame a domestic left already in the streets over CAFTA and related issues. He appeared persuaded by arguments that Guatemala needs to have court-ordered wiretaps and a RICO-like statute to have any hope of success against Guatemalan drug organizations. He says Guatemala will stick with Flores as long as long as he is in the race, but will opt for Derbez if Flores doesn,t make it to the second round; Briz reports the Salvadoran FM as claiming Flores has picked up four Caribbean votes. End Summary.

12. (C) This lunch was Berger,s initiative and took place immediately following a brief press conference at which Berger and the Ambassador made release of the \$3.2m in old MAP funds official. Vice President Eduardo Stein, Foreign Minister Jorge Briz and personal assistant to Berger Alfredo Vila attended, as did DCM Bruce Wharton.

13. (C) CAFTA Debate in U.S.  
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After much jocularly over the March 30 soccer match in Birmingham between the U.S. and Guatemala, discussion turned toward the CAFTA debate in the U.S. How can we be as helpful to you, Berger asked, as you were to us here? The Ambassador replied that they needed to be active in two areas: defensive measures and pro-active lobbying. In the former category, they had in effect played into the hands of an anti-CAFTA argument as a result of a Constitutional Court decision (brought on by a suit the Guatemalan private sector sponsored) that had effectively ended administratively imposed fines for violations of labor laws. Although Guatemalan courts can in theory still impose fines, none had for at least five months. If this is not fixed soon, the Ambassador said, it strengthens the anti-CAFTA argument that the Central Americans are incapable of enforcing their labor laws. There was no clear result from this discussion (Briz noted his ministry was engaged on the issue with the Ministry of Labor but that the Constitutional Court decision had left little room for executive branch action), but Berger was made aware that his government has yet another CAFTA-related problem.

14. (C) The Ambassador also encouraged Berger to reply to every single letter he gets from U.S. organizations alleging that Guatemalan police and military used excessive force against peaceful, anti-CAFTA demonstrators. Silence will be taken for acquiescence to a distorted version of events; the Ambassador noted that we are replying to every email and letter we get, even those on which we are copied and that are directed to Guatemalan authorities. Finally, the Ambassador spoke briefly of the PriceSmart case, explaining that, as it involves U.S. citizens, we are neutral. But as it is being fought out in the Guatemalan court system (though there are indications that the parties may renew efforts to find an out-of-court settlement), the system itself will be on trial. The legal system thus needs to be seen to be fair, impartial and efficient.

15. (C) The Ambassador also encouraged Berger and his government to engage with supporters of CAFTA in the U.S., not to leave the field to CAFTA opponents (the Guatemala press is full, March 30, of articles detailing how Guatemalan & civil society8 is lobbying the U.S. Congress to vote CAFTA down). Berger says he still wants to organize a trip of Central American presidents to Washington but, with Nicaragua and Costa Rica yet to take CAFTA up, was not sure how that would play. He is going to discuss it further with Sacca and Maduro April 1, in Tegucigalpa.

16. (C) The Threat of Drug Organizations  
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Continuing a theme he developed with Defense Secretary Rumsfeld March 24, Berger spoke in anguished tones of how helpless Guatemala feels in its battle against the big drug-trafficking families. He continues to think in terms of somehow just turning them over to the U.S. (&everybody knows who they are, just come get them8). The Ambassador walked him up through the reasons why that doesn't work: we are a nation of laws, we have to develop cases that will hold up in court and neither you nor we working with you have the legal tools to do that, as you lack wiretap authority and a RICO-like statute. This led to our best discussion yet with senior Guatemalan officials that they have to acquire such authorities as soon as possible (we have been working this issue, with some progress, with the Attorney General). Berger seemed energized at its conclusion to make sure that legal reforms that his government was already planning includes such authorities.

#### 17. (U) Criminal Deportees

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Berger has been under the misimpression that we deport aliens convicted of crimes in the U.S. before they complete their prison sentences. He accepted the Ambassador's explanation that this is not the case.

#### 18. (C) Cuba Human Rights Resolution

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Berger heard the Ambassador out on the intrinsic importance of a successful vote and of its political importance to us, reminding him that Guatemala voted yes last year. The Ambassador noted that Costa Rica and Honduras have pledged to vote yes and noted that our resolution was deliberately minimalist. Berger said he of course had no illusions about conditions in Cuba and that maintaining Central American unity would be important. But he fretted that his government is getting tagged with being overly solicitous of U.S. views (this was an allusion to the long, debilitating saga over data protection and CAFTA) and that if Guatemala voted yes, it would give the now-energized left yet another argument. He also said Guatemala is genuinely grateful for the Cuban doctors here and does not want to risk losing them. He inquired as to how Mexico is voting, gave instructions to Briz and Stein to do additional homework and to the Ambassador said &let,s talk again next week .8 Comment:

Classified email to WHA provides somewhat greater detail and asks for heavy artillery to be brought into this discussion.

#### 19. (C) OAS Secretary General Race

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Berger said that Guatemala will vote for Flores as long as he is in the race, but confirmed that, if it narrows to Insulza and Derbez, Guatemala will support Mexico (&our neighbor8).

He asked what we would do in that circumstance. The Ambassador said we are not considering that eventuality because we are not planning to see Flores lose. Berger characterized that good-naturedly as bravado but Briz helpfully chimed in that his Salvadoran colleague reported this morning that Flores has picked up four votes in the Caribbean (not identified to Briz, however). So Briz thought that Flores, possibilities looked at least marginally better. The Ambassador encouraged the Guatemalans to do whatever they could to help Flores get into the second round.

110. (C) Comment: Berger was once again (as he was with SecDef Rumsfeld) effusively appreciative of our release of MAP funds and he values his relationship with us. We need the support of a seventh floor principal, however, to bring him around on Cuba.

HAMILTON